

# **EXHIBIT A**

(Email thread C. Kenney to C. Rollins)

**Chris Kenney**

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**From:** Chris Kenney  
**Sent:** Wednesday, February 22, 2017 10:19 AM  
**To:** 'Cliff Rollins'; Melissa Manning  
**Cc:** Gene Matthews; Dick Harpootlian  
**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

That's fine. We will be filing a motion to have your motion struck. Thank you. -cpk

Christopher P. Kenney  
RICHARD A. HARPOOTLIAN, P.A.  
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**From:** Cliff Rollins [mailto:CRollins@RichardsonPlowden.com]  
**Sent:** Wednesday, February 22, 2017 10:07 AM  
**To:** Chris Kenney <cpk@harpootlianlaw.com>; Melissa Manning <MManning@RichardsonPlowden.com>  
**Cc:** Gene Matthews <GMatthews@RichardsonPlowden.com>; Dick Harpootlian <rah@harpootlianlaw.com>  
**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Federal Rule 26(a)(1)(E) provides that "[a] party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures." If it is your position that the failure to provide a damages computation as referenced in our motion were waived by SCDPS, I think it is your burden to show that.

Even if we had waived the initial by-rule disclosures, the first Interrogatories we did send specifically asked for damages calculations, broken down by category of damages as to each cause of action. Plaintiffs' response was an indication that you would provide this information via supplemental discovery responses. You never did. We will not withdraw the motion.

Cliff



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**From:** Chris Kenney [<mailto:cpk@harpootlianlaw.com>]

**Sent:** Wednesday, February 22, 2017 9:46 AM

**To:** Cliff Rollins; Melissa Manning

**Cc:** Gene Matthews

**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

If your position is they were not waived, can you send me a copy of your client's Rule 26(a)(1) disclosures and a service letter indicating when those were served? We do not have a copy in our file or former counsel's file.

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**From:** Cliff Rollins [<mailto:CRollins@RichardsonPlowden.com>]

**Sent:** Wednesday, February 22, 2017 9:33 AM

**To:** Chris Kenney <[cpk@harpootlianlaw.com](mailto:cpk@harpootlianlaw.com)>; Melissa Manning <[MManning@RichardsonPlowden.com](mailto:MManning@RichardsonPlowden.com)>

**Cc:** Gene Matthews <[GMatthews@RichardsonPlowden.com](mailto:GMatthews@RichardsonPlowden.com)>

**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Chris, I don't believe there was any such waiver on our part. We have reviewed our files and don't see one. If you have documentation of a waiver we will be happy to review it.

Cliff

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**From:** Chris Kenney [<mailto:cpk@harpootlianlaw.com>]

**Sent:** Wednesday, February 22, 2017 9:19 AM

**To:** Melissa Manning

**Cc:** Cliff Rollins; Gene Matthews

**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Cliff and Gene,

These are *not* what is referred to in your client's motion. The documents you attached are local rule interrogatories that do not require any damages disclosure. The predicate for your client's motion is a purported failure to disclose in Rule 26(a)(1) disclosures. Please send me the documents you relied on in filing that motion.

If you do not have Rule 26(a)(1) disclosures from our clients—they are routinely waived and we do not have a copy in our file or former counsel's file—please confirm that you will be withdrawing your client's motion.

Thank you,

Chris

Christopher P. Kenney

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**From:** Melissa Manning [<mailto:MManning@RichardsonPlowden.com>]

**Sent:** Wednesday, February 22, 2017 9:13 AM

**To:** Chris Kenney <[cpk@harpootlianlaw.com](mailto:cpk@harpootlianlaw.com)>

**Cc:** Cliff Rollins <[CRollins@RichardsonPlowden.com](mailto:CRollins@RichardsonPlowden.com)>; Gene Matthews <[GMatthews@RichardsonPlowden.com](mailto:GMatthews@RichardsonPlowden.com)>

**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Chris,

I think the two attached documents are what you are referring to. On page 3, the motion references that injuries were mentioned in the Complaint, Initial 26(a) Disclosures, and Initial Answers to Interrogatories. The motion is referring to the 26.03 Disclosures.

If that isn't what you are looking for, please let me know.

Thanks,

Melissa

HOME	VCARD	LOCATION
		
Melissa Manning Attorney at Law <a href="mailto:MManning@RichardsonPlowden.com">MManning@RichardsonPlowden.com</a>		
Richardson Plowden & Robinson, P.A. 1900 Barnwell Street Columbia, SC 29201 Tel: 803.576.3718 Fax: 803.779.0016 <a href="http://www.RichardsonPlowden.com">www.RichardsonPlowden.com</a>		

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**From:** Cliff Rollins  
**Sent:** Wednesday, February 22, 2017 8:35 AM  
**To:** Melissa Manning  
**Subject:** FW: Newkirk Rule 26(a)(1) disclosures

Melissa, see below. Since you prepared the motion, will you please pull the Rule 26 responses referenced on p.3 of the motion and send them to Chris Kenney?  
Cliff

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**From:** Cliff Rollins  
**Sent:** Wednesday, February 22, 2017 8:34 AM  
**To:** 'Chris Kenney'  
**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

OK. Melissa should be in shortly, I'll ask her to pull a copy and send to you.  
Cliff

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**From:** Chris Kenney [<mailto:cpk@harpootlianlaw.com>]  
**Sent:** Wednesday, February 22, 2017 8:27 AM  
**To:** Cliff Rollins  
**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Correct, our disclosures. We don't have a copy – our office and McCulloch's office weren't in the case yet and they are not in former counsel's file.

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**From:** Cliff Rollins [<mailto:CRollins@RichardsonPlowden.com>]

**Sent:** Wednesday, February 22, 2017 7:47 AM

**To:** Chris Kenney <[cpk@harpootlianlaw.com](mailto:cpk@harpootlianlaw.com)>

**Subject:** RE: Newkirk Rule 26(a)(1) disclosures

Are you referring to your own initial disclosures referred to in the last paragraph of p.3 of our motion, or something else?

---

**From:** Chris Kenney [<mailto:cpk@harpootlianlaw.com>]

**Sent:** Tuesday, February 21, 2017 5:15 PM

**To:** Gene Matthews; Cliff Rollins

**Cc:** 'joe@mccullochlaw.com'

**Subject:** Newkirk Rule 26(a)(1) disclosures

Gene and Cliff,

Do you have a copy of the 26(a)(1) disclosures referred to in your motion? Can you email me a copy?

Thanks,

Chris

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